

DETAILED ACTION

1. Pursuant to USC 119 and 37 CFR 1.55, claims 1-9 are presented for examination.

Information Disclosure Statement

2. It is noted that no Information Disclosure Statement has been filed on this Application.

Priority

3. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 10540676, filed on 06/24/2005.

Oath/Declaration

4. The oath filed on 06/24/2005 complies with all the requirements set forth in MPEP 602 and therefore is accepted.

Drawings

5. The drawings are objected to because: Figures 1A, 1B, and 2 should be designated by a legend such as --Prior Art—because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121 (d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

6. The abstract is objected to and the applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a **separate sheet**. The form and legal phrasology often used in patent claims, such as "**means**" should be avoided. Appropriate correction is required.

Claim Objections

7. Claims 1, 2, 5 and 7-9 are objected to because of the following informalities: In line 5 of claim 1, the claim recites "the video signal". The examiner thinks applicant is trying to refer to the "an analogue video signal" in lines 2 and 3 of claim 1 and the "the video signal" of line 5 needs to be changed to "the analogue video signal." The following claims have similar problems: claims 2 line 3, claim 5 line 4, claim 7 line 5 that refers to the "an analogue video signal" in lines 2 of claim 7, claim 8 line 6 that refers to the "an analogue video signal" in lines 4-5 of claim 8, and claim 9 line 3. Appropriate correction is required.

8. Claim 8 is objected to because: In line 1 wherein "operable" should be changed to "stored."

9. Claim 8 is objected to because: In line 7 wherein said "the data" lack antecedent bases. In light of the disclosure the examiner interpreted "the data" as "the first additional information" and "the second additional information." Appropriate correction is required in response to this office action.

Art Unit: 2136

10. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

11. Claims 1-5 are rejected under 35 U.S.C. 101 because they are directed to non-statutory subject matter as failing to fall within a statutory category and as being directed to software per se (although the preamble of claim 1 recites "A data processing device" it does not inherently mean that the claim is directed to a machine). The "A data processing device" may be reasonably interpreted to be software alone since the elements or features of the claims are not necessarily implemented in hardware. The specification also describes, on page 5 lines 8-14 and page 7 lines 5-10, using a program procedures for determining and rewriting the limitations of claim 1. Therefore the determining and rewriting means of the claim(s) are software per se. and claims 1-5 lack a hardware element. Appropriate correction is required. See MPEP 2106.

12. Claim 6 is rejected under 35 U.S.C. 101 because it is directed to non-statutory subject matter as failing to fall within a statutory category and as being directed to software per se. Although the preamble of claim 6 recites "A data recording/reproducing apparatus" it does not inherently mean that the claim is directed to a machine. The "A data recording/reproducing apparatus" of claim 6 may be reasonably interpreted to be software alone since the elements or features of the claims are not necessarily implemented in hardware. The specification also describes, on page 5 lines 8-14 and page 7 lines 5-10, using a program procedures for determining and rewriting the limitations of claim 1. Therefore the determining and rewriting means of the claim are software per se. and the claim lacks a hardware element. Appropriate correction is required.

13. Claims 8-9 are rejected under 35 U.S.C. 101 because they are directed to non-statutory subject matter as failing to fall within a statutory category invention. Claims 8-9 are directed to software per se, claims 8-9 are not a process/method occurring as a result of executing the program, they're neither a machine programmed to operate in accordance with the program nor a manufacture structurally and functionally interconnected with the program in a manner which enables the program to act as a computer component and realize its functionality. They are also clearly not directed to a composition of matter. Therefore, they are non-statutory under 35 USC 101.

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 1-4, and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ryan USPN 5315448 in view of Ezaki et al. USPN 6266480 B1.

Regarding claims 1 and 6, Ryan discloses a data processing device/recording/reproducing apparatus (fig. 1; *recorder*) for receiving data (col. 3 lines 63-col. 4 lines 22) including an analogue video signal (col. 3 lines 63-66; *analogue video signal "A"*), first additional information indicating permission/prohibition of recording the analogue video signal (col. 4 lines 52-col. 5 lines 21; *copy protection pulses/anti-copy/AC added on the analogue signal*) on an

apparatus (col. 4 lines 23-24 and col. 7 lines 11-33; *tape/CD*) and second additional information for preventing the video signal from being recorded (col. 3 lines 9-17 and col. 7 lines 11-54; *SCPS/SCMS*), and for processing the data, characterized in that said data processing device comprises:

a rewrite means for rewriting the first additional information (col. 6 lines 27-54; *AC bit detector 46 detecting the anti-copy bit and enabling ACP signal generator 50 and the generator 50 generating an analog video anti-copy signal and adding/modifying anti-copy bits/signal*).

Ryan is silent about a determination means for determining whether the permission/prohibition of recording indicated by the first additional information and the second additional information conflict each other or not; and a rewrite means for rewriting the first additional information in accordance with the second additional information when the first additional information and the second additional information contradict.

However Ezaki et al. discloses a recording device (*receiver*) recording data with copy-protection information (*CGMS and APS*) with an apparatus like CD (see fig. 6-8 and col. 6 lines 38-67), when the television receiver/IRD 230 does not operate acceptably with macrovision or copy protection signals (see col. 4 lines 8-15 and col. 11 lines 37-50), generating and supplying a different macrovision signals to television receiver using a different set parameters so as to enable such television receivers not to be adversely affected by the macrovision signals to display acceptable pictures (see col. 4 lines 22-28, col. 6 lines 59-col. 7 lines 11, and col. 7 lines 36-col. 8 lines 47) that reads on a determination means for determining whether the permission/prohibition of recording indicated by the first additional information and the second

additional information conflict each other or not; and rewriting the first additional information in accordance with the second additional information when the first information and the second additional information contradict.

Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify the teachings of Ezaki et al. within the system of Ryan because they are analogous in recording device recording data and copy protection. One would have been motivated to incorporate the teachings of Ezaki et al. so that the receiver would not be affected by any copy protection/macrovision signal and would replace a different copy protection signal so the receiver can understand and provide high quality pictures and display thereon (see col. 11 lines 37-50).

Regarding claim 7, it has similar limitations as claim 1; therefore it is being rejected based on the same rationale.

Regarding claim 8, Ryan discloses a program operable on a computer, characterized in that said program includes:

a first additional information indicating permission/prohibition of recording an analogue video signal (col. 4 lines 52-col. 5 lines 21; *copy protection pulses/anti-copy/AC added on the analogue signal*) on an apparatus (col. 4 lines 23-24 and col. 7 lines 11-33; *tape/CD*) and second additional information for preventing the video signal from being recorded (col. 3 lines 9-17 and col. 7 lines 11-54; *SCPS/SCMS*); and

a procedure for rewriting the first additional information (col. 6 lines 27-54; *AC bit detector 46 detecting the anti-copy bit and enabling ACP signal generator 50 and the generator 50 generating an analog video anti-copy signal and adding/modifying anti-copy bits/signal*).

Ryan is silent about a procedure for processing the data conflict each other or not; and a procedure for rewriting the first additional information in accordance with the second additional information when the first additional information and the second additional information conflict.

However Ezaki et al. discloses a recording device (*receiver*) recording data with copy-protection information (*CGMS and APS*) with on apparatus like CD (see fig. 6-8 and col. 6 lines 38-67), when the television receiver/IRD 230 does not operate acceptably with macrovision or copy protection signals (see col. 4 lines 8-15 and col. 11 lines 37-50), generating and supplying a different macrovision signals to television receiver using a different set parameters so as to enable such television receivers not to be adversely affected by the macrovision signals to display acceptable pictures (see col. 4 lines 22-28, col. 6 lines 59-col. 7 lines 11, and col. 7 lines 36-col. 8 lines 47) that reads on a procedure for processing the data conflict each other or not; and a procedure for rewriting the first additional information in accordance with the second additional information when the first additional information and the second additional information conflict.

Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify the teachings of Ezaki et al. within the system of Ryan because they are analogous in recording device recording data and copy protection. One would have been motivated to incorporate the teachings of Ezaki et al. so that the receiver would not be

affected by any copy protection/macrovision signal and would replace a different copy protection signal so the receiver can understand and provide high quality pictures and display thereon (see col. 11 lines 37-50).

Regarding claim 2, Ryan discloses all the subject matter as described above. Ryan fails to disclose a data processing device, characterized in that the second additional information is information about whether the video signal is subjected to a scramble or not and about such a scramble. However Ezaki et al. discloses scrambling additional data such as broadcasting signal and copyright information and controlling broadcasting the signal using cryptography (see col. 7 lines 36-col. 8 lines 14). Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify the teachings of Ryan within the system of Ezaki et al. because they are analogous in copy protection and digital data generation. One would have been motivated to do so to protect data from being accessed inappropriately and provide deciphering key only when the receiver has rights to access data.

Regarding claim 3, Ryan discloses a data processing device, characterized in that the second additional information is information about the presence or absence of a macrovision signal (Ryan col. 4 lines 67-col. 5 lines 47 and col. 6 lines 27-61; *modifying video signal of TV receiver... adding and detecting pseudo-sync, positive pulses*). Ryan further discloses using different types of the macrovision signal (see col. 4 lines 52-col. 5 lines 21, col. 3 lines 9-17 and col. 7 lines 11-54; *copy protection pulses/anti-copy/AC, SCPS/SCMS*) but fails to explicitly disclose the second additional information is information about the presence or absence of a type of the macrovision signal. However Ezaki et al. discloses the television receiver/IRD 230 detecting, accessing and checking the second different type macrovision/copy protection signals

received (see col. 4 lines 22-28, col. 6 lines 59-col. 7 lines 11, and col. 7 lines 36-col. 8 lines 47) when the first is does not operate acceptably (see col. 4 lines 8-15 and col. 11 lines 37-50). Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify the teaching of Ezaki et al. within the system of Ryan because they are analogous in multimedia data copy protection. One would have been motivated to incorporate and modify the teachings to let the VCR receivers read the appropriate copy protection rule and control media data from unauthorized reproducing.

Regarding claim 4, Ryan discloses different types of copy protection like copy protection pulses/anti-copy/AC (see col. 4 lines 52-col. 5 lines 21), and SCPS/SCMS (see col. 7 lines 11-54) but does not explicitly disclose the first additional information is CGMS data. However Ezaki et al. discloses a data processing device, characterized in that the first additional information is a CGMS data (see fig. 7). Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention was made to include the CGMS within the system of Ryan to allow controlling copying of DVD video discs by allowing only the first/certain copy to be made.

16. Claims 5 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ryan USPN 5315448 and Ezaki et al. USPN 6266480 B1 and further in view of Kato et al. USPN 7248786 B2.

Regarding claims 5 and 9, the combination teach the data processing device/program, characterized: the first additional information (Ryan col. 4 lines 52-col. 5 lines 21 and col. 7 lines

27-54; *copy protection pulses/anti-copy/AC added on the analogue signal... number of allowable copy*), the second additional information (Ryan col. 3 lines 9-17 and col. 7 lines 11-54; SCPS/SCMS) and Ezaki et al. discloses a recording device (*receiver*) recording data with copy-protection information (*CGMS and APS*) when the television receiver/IRD 230 does not operate acceptably with macrovision or copy protection signals (see col. 4 lines 8-15 and col. 11 lines 37-50), generating and supplying a different macrovision signals to television receiver using a different set parameters so as to enable such television receivers not to be adversely affected by the macrovision signals to display acceptable pictures (see col. 4 lines 22-28, col. 6 lines 59-col. 7 lines 11, and col. 7 lines 36-col. 8 lines 47) that reads on determines that the permission/prohibition of recording indicated by the first additional information and the second additional information do not conflict each other when the copy protection information of the first additional information and the second additional information agree and when the copy control information of the first additional information and the second additional information do not conflict. The rational for combining are the same as claim 1 above.

The combination fails to explicitly disclose the first additional information includes copy protection information for preventing the video signal from being recorded and copy control information for controlling an allowable copy generation; and in that the determination means determines whether the copy protection information of the first additional information and the second additional information agree with respect to each other or not and whether the copy control information of the first additional information and the second additional information conflict each other or not.

However Kato et al. discloses that using multiple copy protections, example CGMS, WM, APS and CCI, for preventing a video signal from being recorded (see fig. 23-24 and col. 14 lines 58-62) and the multiple copy control information are compared/determined in order to allow/deny generating recording signal (when CGMS and WM of the input signal indicates "01" or "101" no more copy, and indicates "11" copy once the input signal is recorded and overwriting the signals) (see col. 16 lines 63-col. 17 lines 25).

Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify the teachings of Kato et al. within the combination system because they are analogous in generating copy control signal and controlling recording access. One would have been motivated to incorporate the teachings of Kato et al. to allow restricting unauthorized accessing of all images by comparing multiple copy protection controls.

Conclusion

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ELENI A. SHIFERAW whose telephone number is (571)272-3867. The examiner can normally be reached on Mon-Fri 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nasser R. Moazzami can be reached on (571) 272-4195. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Eleni A Shiferaw/
Examiner, Art Unit 2136
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